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Before the

**FEDERAL COMMUNICATIONS COMMISSION**

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

Washington, D.C. 20554

In the Matter of

Implementation of the Local Competition  
Provisions in the Telecommunications Act  
of 1996

Interconnection between Local Exchange  
Carriers and Commercial Mobile Radio  
Service Providers

Area Code Relief Plan for Dallas and  
Houston, Ordered by the Public Utility  
Commission of Texas

Administration of the North American  
Numbering Plan

Proposed 708 Relief Plan and 630  
Numbering Plan Area Code by Ameritech-  
Illinois

CC Docket No. 96-98

CC Docket No. 95-185

DOCKET FILE COPY ORIGINAL

NSD File No. 96-8

CC Docket No. 92-237

IAD File No. 94-102

**MFS COMMUNICATIONS COMPANY, INC.  
REPLY TO COMMENTS ON PETITION FOR  
RECONSIDERATION OF SECOND REPORT AND ORDER**

David N. Porter  
Vice President, Government Affairs  
MFS COMMUNICATIONS  
COMPANY, INC.  
3000 K Street, N.W., Suite 300  
Washington, D.C. 20007  
(202) 424-7709

Andrew D. Lipman  
Russell M. Blau  
SWIDLER & BERLIN, Chartered  
3000 K Street, N.W., Suite 300  
Washington, D.C. 20007  
(202) 424-7500  
Fax (202) 424-7645

Attorneys for  
MFS Communications Company, Inc.

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	)	
Administration of the North American	)	CC Docket No. 92-237
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**MFS COMMUNICATIONS COMPANY, INC.**  
**REPLY TO COMMENTS ON PETITION FOR**  
**RECONSIDERATION OF SECOND REPORT AND ORDER**

MFS Communications Company, Inc. ("MFS"), by its undersigned counsel, hereby replies to the comments filed with the Commission in response to MFS' Petition for Limited Reconsideration and Clarification of the *Second Report and Order* in the above-captioned dockets, FCC 96-333, released August 8, 1996 (the "2nd R&O").<sup>1</sup>

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<sup>1</sup> Comments filed in response to petitions for reconsideration or clarification are cited by name of party only. Petitions for reconsideration or clarification of the 2nd R&O are cited as "[Name of Party] Petition."

## **I. AREA CODE OVERLAYS**

### **A. The Commission Should Require Permanent Number Portability as a Prerequisite for Any Area Code Overlay Plan**

In its Petition, MFS asked the Commission to prohibit the introduction of any area code overlays until permanent number portability has been implemented in the area to be affected by the overlay plan.<sup>2</sup> This request was opposed by a number of incumbent LECs, who argued generally that the Commission had already considered and rejected this approach in the *2nd R&O*.<sup>3</sup>

It is obviously true that the Commission has considered and rejected this proposal—that is precisely why reconsideration is necessary. MFS' Petition, along with other Petitions addressing this issue, demonstrated that the conditions adopted by the Commission as prerequisites for area code overlays were inadequate to achieve the Commission's stated goal of competitive neutrality. The Commission's decision, in other words, was predicated on an incorrect belief that adoption of less stringent prerequisites—chiefly the "one-NXX" rule and a 10-digit dialing requirement—would allow overlay plans to be implemented in a competitively neutral manner. In fact, the anticompetitive impacts of overlays would not be materially ameliorated by the measures. Only permanent number portability will be sufficient to eliminate the perceived stigma associated with

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<sup>2</sup> A number of incumbent LECs filed comments suggesting that MFS had also sought reconsideration of the Commission's requirement that one NXX code be available for assignment to each certificated local exchange carrier in any area proposed for an overlay. Although MFS did point out that this "one-NXX" rule was inadequate to prevent competitive inequity in an area code overlay, MFS did not seek modification of this rule because it believes that *only* permanent number portability is an adequate safeguard. MFS is generally supportive of other parties' petitions which did seek changes to the "one-NXX" rule, particularly those of AT&T and Teleport, but it will not address that issue further in this reply.

<sup>3</sup> See, e.g., Bell Atlantic NYNEX Mobile, *passim*; BellSouth at 1-2; GTE at 12-13; Pacific Telesis at 2-3; U S West at 11-12; USTA at 2-5. On the other hand, MFS' position was supported by AT&T at 15; Cox at 2-4; NCTA at 1-6; and Teleport at 3-6.

overlay area codes, and the resulting disadvantage to competitive entrants who would be forced to assign a disproportionate share of telephone numbers in these overlay area codes.

Contrary to the assertions of opponents that MFS and other parties seeking reconsideration have raised no new arguments to justify imposing a permanent number portability prerequisite for overlays, the Petitions in fact demonstrate that the analysis of this issue in the *2nd R&O* was flawed and should be reconsidered.

## **II. DIRECTORY LISTING SERVICES**

### **A. The Commission Should Confirm That LECs Publishing Directories Are Required to Offer Listing Services to Requesting Carriers**

In its Petition, MFS asked the Commission to reconsider its discussion and interpretation of the term “directory listing” as used in Section 251(b)(3). MFS Petition at 8-12. As MFS pointed out, the Commission interpreted the statutory phrases “directory assistance and directory listing” in a manner that failed to differentiate between the two concepts, and therefore failed fully to implement the intent of Congress. “Directory listing” refers to the act of placing a customer’s listing information in a published directory compilation (which may be a printed book or some another medium such as a CD-ROM), rather than to information provided by a directory assistance operator.

Bell Atlantic (at 7) agreed with MFS that the Commission’s interpretation of Section 251(b)(3) was erroneous in this particular respect, and agreed that a LEC that publishes a directory does have a duty to incorporate listing information supplied by competing carriers. (MFS does not, however, agree with Bell Atlantic’s further assertion that the Commission erred in requiring LECs to provide directory listing information in magnetic tape or other electronic formats.) No other party appears to have commented upon this issue.

MFS respectfully submits that the lack of controversy on this topic confirms that the Commission must have inadvertently overlooked the implications of Section 251(b)(3) with respect to directory publication, and that there is no material dispute that Congress did intend to require LECs to include their competitors' listings in any directory that they publish (or cause to be published by a contractor or other agent). The Commission should correct this error by granting MFS' petition and adding to its rules a provision requiring LECs, if they publish (or arrange for publication of) a directory in any medium, to include therein listing information supplied by a requesting carrier on a non-discriminatory basis.

### III. CONCLUSION

For the reasons stated above, MFS' Petition for Limited Reconsideration and Clarification should be granted.

Respectfully submitted,



David N. Porter  
Vice President, Government Affairs  
MFS COMMUNICATIONS  
COMPANY, INC.  
3000 K Street, N.W., Suite 300  
Washington, D.C. 20007  
(202) 424-7709

Andrew D. Lipman  
Russell M. Blau  
SWIDLER & BERLIN, Chartered  
3000 K Street, N.W., Suite 300  
Washington, D.C. 20007  
(202) 424-7500  
Fax (202) 424-7645

Attorneys for  
MFS Communications Company, Inc.

**CERTIFICATE OF SERVICE**

I hereby certify that on this 4th day of December 1996 copies of MFS Communications Company, Inc.'s Reply To Comments On Petition For Reconsideration of Second Report and Order were served on the attached service list by first class mail, postage prepaid.

  
Celia Petrowsky

**WILLIAM F. CATON**  
Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

**REGINA KEENEY**  
Chief, Common Carrier Bureau  
Federal Communications Commission  
1919 M Street, N.W., Room 500  
Washington, D.C. 20554

**RICHARD WELCH**  
Chief, Policy and Program Planning Division  
Federal Communications Commission  
1919 M Street, N.W., Room 544  
Washington, D.C. 20554

**GERALDINE MATISSE**  
Chief Network Services Division  
Common Carrier Bureau  
Federal Communications Commission  
2000 M Street, N.W., Room 235A  
Washington, D.C. 20554

**JANICE MYLES\*\*** (via diskette + 4 copies)  
Common Carrier Bureau  
Federal Communications Commission  
1919 M Street, N.W., Room 544  
Washington, D.C. 20554

**INTERNATIONAL TRANSCRIPTION SERVICE\*\***  
Federal Communications Commission  
1919 M Street, N.W., Room 246  
Washington, D.C. 20554

**Mr. Reed E. Hundt**  
Chairman  
Federal Communications Commission  
1919 M Street, N.W.  
Room 814  
Washington, D.C.

**Mr. James H. Quello**  
Commissioner  
Federal Communications Commission  
1919 M Street, N.W.  
Room 802  
Washington, D.C.

**Ms. Rachelle B. Chong**  
Commissioner  
Federal Communications Commission  
1919 M Street, N.W.  
Room 844  
Washington, D.C.

**Ms. Susan Ness**  
Commissioner  
Federal Communications Commission  
1919 M Street, N.W.  
Room 832  
Washington, D.C.



**360° Communications Company**  
Kevin C. Gallagher, Sr. Vice President  
-- General Counsel and Secretary  
8725 West Higgins Road  
Chicago, IL 60631

**Ad Hoc Coalition of Corporate  
Telecommunications Managers**  
Rodney L. Joyce  
Ginsburg, Feldman and Bress  
1250 Connecticut Avenue, N.W.  
Washington, DC 20036

**Ad Hoc Telecommunications Users  
Committee**  
Laura F. H. McDonald  
Levine, Blaszak, Block & Boothby  
1300 Connecticut Ave., NW, Suite 500  
Washington, DC 20036-1703

**AirTouch Communications, Inc.**  
David A. Gross  
Kathleen Q. Abernathy  
1818 N Street, N.W., Suite 800  
Washington, DC 20036

**Alabama Public Service Commission**  
Mary E. Newmeyer  
John Garner  
100 N. Union Street  
P.O. Box 991  
Montgomery, AL 36101

**Alaska Public Utilities Commission**  
Don Schröer  
1016 West Sixth Avenue, Suite 400  
Anchorage, AK 99501

**Alliance for Public Technology**  
Dr. Barbara O'Connor, Chairwoman  
Mary Gardiner Jones, Policy Chair  
901 15th Street, Suite 230  
Washington, DC 20005

**ALLTEL Telephone Services Corporation**  
Carolyn C. Hill  
655 15th Street, N.W., Suite 220  
Washington, DC 20005

**American Communications Services, Inc.**  
Brad E. Mutschelknaus  
Steve A. Augustino  
Marieann K. Zochowski  
Kelley Drye & Warren  
1200 19th Street, NW, Suite 500  
Washington, DC 20036

**American Mobile Telecommunications  
Association, Inc.**  
Alan R. Shark, President  
1150 18th Street, NW, Suite 250  
Washington, DC 20036

**American Network Exchange, Inc.  
and U.S. Long Distance, Inc.**  
Danny E. Adams  
Steven A. Augustino  
Kelley, Drye & Warren, LLP  
1200 19th Street, NW, Suite 500  
Washington, DC 20036

**American Personal Communications**  
Anne P. Schelle, Vice President,  
External Affairs  
One Democracy Center  
6901 Rockledge Drive, Suite 600  
Bethesda, MD 20817

**American Public Communications Council**  
Albert H. Kramer  
Robert F. Aldrich  
Dickstein, Shapiro & Morin, LLP  
2101 L Street, NW  
Washington, DC 20037-1526

**American Public Power Association**  
James Baller  
Lana Meller  
The Baller Law Group  
1820 Jefferson Place, NW, Suite 200  
Washington, DC 20036

**Ameritech**  
Antoinette Cook Bush  
Linda G. Morrison  
Skadden, Arps, Slate, Meagher & Flom  
1440 New York Ave., NW  
Washington, DC 20005

**Anchorage Telephone Utility**  
Paul J. Berman  
Alane C. Weixel  
Covington & Burling  
1201 Pennsylvania Avenue, N.W.  
P.O. Box 7566  
Washington, DC 20044-7566

**Arch Communications Group, Inc.**  
Carl W. Northrop  
Christine M. Crowe  
Paul, Hastings, Janofsky & Walker  
1299 Pennsylvania Avenue, N.W., 10th Floor  
Washington, DC 20004

**Association for Local Telecommunications  
Services**  
Richard J. Metzger  
Emily M. Williams  
1200 19th Street, NW, Suite 560  
Washington, DC 20036

**AT&T Corporation**  
Mark E. Haddad  
James P. Young  
Sidley & Austin  
1722 Eye Street, N.W.  
Washington, D.C. 20006

**Bay Springs Telephone Co., Inc.; Crockett  
Telephone Co.; National Telephone  
Company of Alabama; Peoples Telephone  
Company; Roanoke Telephone Company;  
and West Tennessee Telephone Company**  
James U. Troup  
Arter & Hadden  
1801 K Street, N.W., Suite 400 K  
Washington, DC 20006

**Bell Atlantic**

Michael E. Glover  
Leslie A. Vial  
James G. Pachulski  
Lydia Pulley  
1320 North Court House Rd, 8th Floor  
Arlington, Va 22201

**BellSouth**

M. Robert Sutherland  
Richard M. Sbaratta  
A. Kirvin Gilbert III  
Suite 1700  
1155 Peachtree Street, N.E.  
Atlanta, GA 30309-3610

**Cable & Wireless, Inc.**

Danny E. Adams  
John J. Heitmann  
KELLEY DRYE & WARREN LLP  
1200 19th Street, NW  
Washington, DC 20036

**Centennial Cellular Corp.**

Richard Rubin  
Steven N. Teplitz  
Fleischman and Walsh, L.L.P.  
1400 Sixteenth Street, N.W., Suite 600  
Washington, DC 20036

**Colorado Independent Telephone Association**

Norman D. Rasmussen  
Executive Vice President  
3236 Hiwan Drive  
Evergreen, CO 80439

**Bell Atlantic Nynex Mobile, Inc.**

John T. Scott, III  
Crowell & Moring  
1001 Pennsylvania Avenue, N.W.  
Washington, DC 20004

**Buckeye Cablevision**

Mark J. Palchick  
Stephen M. Howard  
Vorys, Sater, Seymour & Pease  
1828 L Street, N.W., Suite 1111  
Washington, DC 20036

**Cellular Telecommunications Industry  
Association**

Michael F. Altschul, Vice President,  
General Counsel  
Randall S. Coleman, Vice President for  
Regulatory Policy and Law  
1250 Connecticut Avenue, NW, Suite 200  
Washington, DC 20036

**Cincinnati Bell Telephone**

Thomas E. Taylor  
Jack B. Harrison  
Frost & Jacobs  
2500 PNC Center  
201 East Fifth Street  
Cincinnati, OH 45202

**Colorado Public Utilities Commission**

Robert J. Hix, Chairman  
Vincent Majkowski, Commissioner  
1580 Logan Street, Office Level 2  
Denver, CO 80203

**Communications and Energy Dispute  
Resolution Associates**

Gerald M. Zuckerman  
Edward B. Myers  
International Square  
1825 I Street, N.W., Suite 400  
Washington, DC 20006

**Competition Policy Institute**

Ronald J. Binz, President  
Debra Berlyn, Executive Director  
1156 15th Street, N.W., Suite 310  
Washington, DC 20005

**Consumer Federation of America (CFA)  
and Consumers Union (CU)**

Bradley C. Stillman, Esq.,  
Consumer Federation of America  
1424 16th Street, N.W.  
Washington, DC 20036

**Department of Defense, Office of the Secretary**

Rebecca S. Weeks, Lt Col, USAF  
Staff Judge Advocate  
Carl W. Smith, Chief Regulatory  
Counsel Telecommunications, DOD  
Defense Information Systems Agency  
701 S. Courthouse Road  
Arlington, VA 22204

**Department of Justice**

Anne K. Bingaman, Assistant Attorney  
General  
Antitrust Division  
555 4th Street, N.W., Room 8104  
Washington, DC 20001

**Competitive Telecommunications  
Association**

Robert J. Aamoth  
Wendy I. Kirchick  
Reed Smith Shaw & McClay  
1301 K Street, NW, Suite 1100 East Tower  
Washington, DC 20005

**Connecticut Department of Public  
Utility Control**

Reginald J. Smith, Chairperson  
10 Franklin Square  
New Britain, CT 06061

**Cox Communications, Inc.**

Werner K. Hartenberger  
Leonard J. Kennedy  
Laura H. Phillips  
J.G. Harrington  
Dow, Lohnes & Albertson  
1200 New Hampshire Avenue, NW, Ste. 800  
Washington, DC 20036

**Department of Defense**

Robert N. Kittel, Chief Regulatory Law Office  
Cecil O. Simpson, Jr., General Attorney  
Office of the Judge Advocate General  
U.S. Army Litigation Center  
901 N. Stuart Street, Suite 713  
Arlington, VA 22203-1837

**District of Columbia Public Service  
Commission**

Lawrence D. Crocker, III  
Acting General Counsel  
450 Fifth Street, NW  
Washington, DC 20001

**Excel Telecommunications, Inc.**  
Thomas K. Crowe  
Law Offices of Thomas K. Crowe, P.C.  
2300 M Street, N.W.  
Washington, DC 20037

**Florida Public Service Commission**  
Cynthia Miller  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

**Frontier Corporation**  
Michael J. Shortley, III  
180 South Clinton Avenue  
Rochester, NY 14646-0700

**General Communication, Inc.**  
Kathy L. Shobert  
Director, Federal Affairs  
901 15th Street, N.W., Suite 900  
Washington, DC 20005

**General Services Administration**  
Emily C. Hewitt, General Counsel  
Vincent L. Crivella, Associate General  
Counsel, Personal Property Division  
18th & F Streets, N.W., Room 4002  
Washington, DC 20405

**Georgia Public Service Commission**  
Dave Baker, Chairman  
B.B. Knowles, Director of Utilities  
244 Washington, Street, SW  
Atlanta, GA 30334-5701

**GTE Service Corporation**  
Richard E. Wiley  
R. Michael Senkowski  
Jeffrey S. Linder  
Wiley, Rein & Fielding  
1776 K Street, NW  
Washington, DC 20006

**Guam Telephone Authority**  
Veronica M. Ahern  
Nixon Hargrave Devans & Doyle LLP  
One Thomas Circle, NW, Suite 800  
Washington, DC 20005

**GVNW Inc.**  
Robert C. Schoonmaker, Vice President  
P.O. Box 25969  
(2270 La Montana Way)  
Colorado Springs, CO 80936 (80918)

**Home Telephone Company, Inc.**  
H. Keith Oliver, Accounting Manager  
200 Tram Street  
Moncks Corner, SC 29461

**Idaho Public Utilities Commission**  
P.O. Box 83720  
Boise, ID 83720-0074

**Illinois Independent Telephone Association**  
Dwight E. Zimmerman, Executive Vice  
President  
RR 13, 24B Oakmont Road  
Bloomington, IL 61704

**Indiana Utility Regulatory Commission**  
Robert C. Glazer, Director of Utilities  
Indiana Government Center South  
302 West Washington, Suite E306  
Indianapolis, IN 46204

**Information Technology Industry Council**  
Fiona Branton, Director, Government  
Relations and Regulatory Counsel  
1250 Eye Street, N.W.  
Washington, DC 20005

**Intelcom Group (U.S.A.), Inc.**  
Albert H. Kramer  
Robert F. Aldrich  
Dickstein, Shapiro & Morin, LLP  
2101 L Street, NW  
Washington, DC 20037-1526

**Intermedia Communications, Inc.**  
Jonathan E. Canis  
Reed Smith Shaw & McClay  
1301 K Street, NW  
Suite 1100 East Tower  
Washington, DC 20005

**International Communications Association**  
Brian R. Moir  
Moir & Hardman  
2000 L Street, NW, Suite 512  
Washington, DC 20036-4907

**Iowa Utilities Board**  
William H. Smith, Jr., Chief  
Bureau of Rate and Safety Evaluation  
Lucas State Office Building  
Des Moines, IA 50319

**John Staurulakis, Inc.**  
Michael S. Fox, Director, Regulatory Affairs  
6315 Seabrook Road  
Seabrook, MD 20706

**Jones Intercable, Inc.**  
Christopher W. Savag  
Navid C. Haghighi  
Cole, Raywid & Braverman, LLP  
1919 Pennsylvania Avenue, NW, Ste. 200  
Washington, DC 20006

**Kansas Corporation Commission**  
David Heinemann, General Counsel  
Julie Thomas Bowles, Asst. Gen. Counsel  
1500 SW Arrowhead Road  
Topeka, KS 66604

**Kentucky Public Service Commission**  
May E. Dougherty  
PO Box 615  
Frankfort, KY 40602

**LCI International Telecom Corp.,**  
Robert J. Aamoth  
Reed Smith Shaw & McClay  
1301 K Street, NW, Suite 1100, East Tower  
Washington, DC 20005

**LDDS Worldcom, Inc.**  
Peter A. Rohrbach  
Linda L. Oliver  
Kyle Dixon  
Hogan & Hartson, LLP  
555 Thirteenth Street, N.W.  
Washington, DC 20004

**Lincoln Telephone and Telegraph  
Company**  
Robert A. Mazer  
Albert Shuldiner  
Mary Pape  
Vinson & Elkins  
1455 Pennsylvania Avenue, N.W.  
Washington, DC 20004-1008

**Lucent Technologies, Inc.**  
Stephen R. Rosen  
Theodore M. Weitz  
475 South Street  
Morristown, NJ 07962-1976

**Maine Public Utilities Commission**  
Joel B. Shifman, Esq.  
242 State Street, State House Station No. 18  
Augusta, ME 04333-0018

**Maryland Public Service Commission**  
Bryan G. Moorhouse, General Counsel  
Susan Stevens Miller, Asst. General Counsel  
6 St. Paul Street  
Baltimore, MD 21202

**Massachusetts Attorney General Scott  
Harshbarger**  
Daniel Mitchell, Asst. Attorney General  
Regulated Industries Division, Public  
Protection Bureau  
200 Portland Street, Fourth Floor  
Boston, MA 02114

**Massachusetts Department of Public  
Utilities**  
John B. Howe, Chairman  
Mary Clark Webster, Commissioner  
Janet Gail Besser, Commissioner  
100 Cambridge Street, 12th Floor  
Boston, MA 02202

**MCI Telecommunications Corporation**

Don Sussman  
Larry Fenster  
Charles Goldfarb  
Mark Bryant  
Mary L. Brown  
1801 Pennsylvania Ave., NW  
Washington, DC 20006

**Metricom, Inc.**

Henry M. Rivera  
Larry S. Solomon  
J. Thomas Nolan  
Ginsburg, Feldman & Bress, Chtd.  
1250 Connecticut Avenue, N.W.  
Washington, DC 20036

**Michigan Exchange Carriers Association**

Glen A. Schmiede  
Mark J. Burzych  
Foster, Swift, Collins & Smith, P.C.  
313 South Washington Square  
Lansing, MI 48933

**Michigan Public Service Commission**

John G. Strand  
Ronald E. Russell  
John L. O'Donnell  
6545 Mercantile Way  
Lansing, MI 48911

**Minnesota Independent Coalition**

Richard J. Johnson  
Michael J. Bradley  
Moss & Barnett  
4800 Norwest Center  
90 South Seventh Street  
Minneapolis, MN 55402-4129

**Missouri Public Service Commission**

Harold Crumpton, Commissioner  
P.O. Box 360  
Jefferson City, MO 65102

**MobileMedia Communications, Inc.**

Gene P. Belardi, Vice President  
2101 Wilson Boulevard, Suite 935  
Arlington, VA 22201

**Montana Public Service Commission**

Karen Finstad Hammel, Esq.  
1701 Prospect Avenue  
P.O. Box 202601  
Helena, MT 59620-2601

**Municipal Utilities**

James N. Horwood  
Scott H. Strauss  
Wendy S. Lader  
Spiegel & McDiarmid  
1350 New York Avenue, NW  
Washington, DC 20005

**Natl. Association of Regulatory Utility Commissioners**

Paul Rodgers  
Charles D. Gray  
James Bradford Ramsay  
1201 Constitution Avenue, N.W., Suite 1102  
1102 ICC Building  
P.O. Box 684  
Washington, DC 20044



**National Association of State Utility  
Consumer Advocates (NASUCA)**

Martha S. Hogerty  
1133 15th Street, N.W., Suite 550  
Washington, DC 20005

**National Cable Television Association, Inc.**

Daniel L. Brenner  
Neal M. Goldberg  
David L. Nicoll  
1724 Massachusetts Ave., NW  
Washington, DC 20036

**National Exchange Carrier Association,  
Inc.**

Joanne Salvatore Bochis  
100 South Jefferson Road  
Whippany, NJ 07981

**National Wireless Resellers Association**

Douglas L. Povich  
Kelly & Povich, P.C.  
1101 30th Street, NW  
Washington, DC 20007

**Nextlink Communications, L.L.C.**

J. Scott Bonney, Vice President, Regulatory  
External Affairs  
155 108th Avenue, NE  
Bellevue, WA 98004

**Nextel Communications, Inc.**

Robert S. Foosaner, Sr. Vice President, Gen. Couns.  
Lawrence R. Krevor, Director  
Laura L. Holloway, General Attorney  
800 Connecticut Avenue, N.W., Suite 1001  
Washington, DC 20006

**North Carolina Public Utilities Commission  
Public Staff**

Antoinette R. Wike, Chief Counsel  
PO Box 29520  
Raleigh, NC 27626-0520

**North Dakota Public Service Commission**

Bruce Hagen, Commissioner  
Susan E. Wefald, President  
Leo M. Reinbold, Commissioner  
State Capitol Building  
12th Floor  
Bismarck, ND 58505

**Northern Telecom**

Stephen L. Goodman  
Halprin, Temple, Goodman & Sugrue  
1100 New York Avenue, N.W.  
Suite 650, East Tower  
Washington, DC 20005

**NYNEX Telephone Companies**

Saul Fisher  
William J. Balcerski  
1111 Westchester Avenue  
White Plains, NY 10604

**Office of the Ohio Consumers' Counsel**

David C. Bergman  
Thomas J. O'Brien  
77 South High Street, 15th Floor  
Columbus, OH 43266-0550

**Ohio Public Utility Commission**

Steven T. Nourse  
Jodi Jenkins Bair  
180 East Broad Street  
Columbus, OH 43215-3793

**Oklahoma Corporation Commission**

Ernest G. Johnson, Director  
Public Utility Division  
John Gray, Senior Asst. General Counsel  
Office of General Counsel  
Maribeth D. Snapp, Deputy General Counsel  
PO Box 25000-2000  
Oklahoma City, OK 73152-2000

**Omnipoint Corporation**

Mark J. Tauber  
Mark J. O'Connor  
Piper & Marbury, L.L.P.  
1200 19th Street, N.W., Seventh Floor  
Washington, DC 20036

**Oregon Public Utility Commission**

W. Benny Won  
Public Utility Section  
1162 Court Street, NE  
Salem, OR 97310

**Pacific Telesis Group**

Marlin D. Ard  
Randall E. Cape  
John W. Bogy  
140 New Montgomery Street  
Room 1625  
San Francisco, CA 94105

Margaret E. Garber  
1275 Pennsylvania Avenue, NW  
Washington, DC 20004

**Paging Network, Inc.**  
Judith St. Ledger-Roty  
Paul G. Madison  
Reed Smith Shaw & McClay  
1301 K Street, N.W., Suite 1100  
Washington, DC 20005-3317

**Pennsylvania Public Utility Commission**

Maureen A. Scott, Assistant Counsel  
P.O. Box 3265  
Harrisburg, PA 17105-3265

**Personal Communications Industry  
Association**

Mark J. Golden, Vice President  
-- Industry Affairs  
Robert R. Cohen  
500 Montgomery Street, Suite 700  
Alexandria, VA 22314-1561

**ProNet Inc.**

Jerome K. Blask

Daniel E. Smith

Gurman, Blask & Freedman, Chtd.

1400 Sixteenth St., NW, Suite 500

Washington, DC 20036

**Puerto Rico Telephone Company**

Joe D. Edge

Richard J. Arsenault

Tina M. Pidgeon

Drinker, Biddle & Reath

901 15th Street, N.W.

Washington, DC 20005

**Roseville Telephone Company**

George Petrutsas

Paul J. Feldman

Fletcher, Heald & Hildreth, P.L.C.

1300 North 17th Street, 11th Floor

Rosslyn, VA 22209

**Rural Telephone Coalition**

Margot Smiley Humphrey

NRTA

Koteen & Naftalin, LLP

1150 Connecticut Avenue, NW, Ste. 1000

Washington, DC 20036

**SBC Communications Inc.**

James D. Ellis

Robert M. Lynch

David F. Brown

175 E. Houston, Room 1254

San Antonio, TX 78205

**Scherers Communications Group, Inc.**

Susan Drombetta

Manager - Rates and Tariffs

575 Scherers Court

Worthington, OH 43085

**SDN Users Association, Inc.**

Reginald R. Bernard, President

P.O. Box 4014

Bridgewater, NJ 08807

**Small Business Administration**

Jere W. Glover, Esq., Chief Counsel

David W. Zesiger, Esq., Assistant

Chief Counsel

Office of Advocacy

409 Third Street, S.W., Suite 7800

Washington, DC 20416

**Small Cable Business Association**

Eric E. Breisach

Christopher C. Cinnamon

Howard & Howard

107 W. Michigan Ave., Suite 400

Kalamazoo, MI 49007

**South Carolina Public Service Commission**

R. Glenn Rhyne, Manager-Research Dept.

111 Doctors Circle (P.O. Drawer 11649)

Columbia, SC 29203 (29211)

**Southern New England Telephone  
Company**

Rodney L. Joyce  
J. Thomas Nolan  
Ginsburg, Feldman and Bress  
1250 Connecticut Avenue, N.W.  
Washington, DC 20036

**Sprint Spectrum**

Jonathan D. Blake  
Kurt A. Wimmer  
Gerard J. Waldron  
Covington & Burling  
1201 Pennsylvania Avenue, N.W.  
Washington, DC 20044-7566

**TDS Telecommunications Corporation**

Margot Smiley Humphrey  
Koteen & Naftalin, L.L.P.  
1150 Connecticut Avenue, N.W., Suite 1000  
Washington, D.C. 20036

**Telecommunications Carriers For  
Competition**

Peter A. Rohrbach  
Linda L. Oliver  
Kyle D. Dixon  
Hogan & Hartson L.L.P.  
555 Thirteenth Street, N.W.  
Washington, DC 20004

**Telecommunications Industry Association**

Jot D. Carpenter, Jr.  
Vice President, Government Relations  
1201 Pennsylvania Ave., NW, Suite 315  
Washington, DC 20044-0407

**Sprint Corporation**

Leon M. Kestenbaum  
Jay C. Keithley  
H. Richard Juhnke  
1850 M Street, NW, 11th Floor  
Washington, DC 20036

**TCA, Inc.**

Chris Barron  
3617 Betty Drive, Suite 1  
Colorado Springs, CO 80917

**Tele-Communications, Inc.**

Philip L. Verveer  
Sue D. Blumenfeld  
Thomas Jones  
Willkie Farr & Gallagher  
Three Lafayette Centre  
1155 21st Street, NW  
Washington, DC 20036

**Telecommunications Industries Analysis Project**

University of Florida  
College of Business Administration  
Carol Weinhaus et al.  
121 Mt. Vernon Street  
Boston, MA 02108

**Telecommunications Resellers Association**

Charles C. Hunter  
Hunter & Mow, PC  
1620 I Street, NW, Suite 701  
Washington, DC 20006

**Teleport Communications Group Inc.**  
J. Manning Lee, Vice President,  
Regulatory Affairs  
Teresa Marrero, Sr. Regulatory Counsel  
One Teleport Drive, Suite 300  
Staten Island, NY 10311

**Texas Public Utility Commission**  
Pat Wood, III  
Robert W. Gee  
Judy Walsh  
7800 Shoal Creek Blvd.  
Austin, TX 78757

**Texas Statewide Telephone Cooperative,  
Inc. (TSTCI)**  
Gary L. Mann  
TSTCI  
3721 Executive Center Drive, Suite 200  
Austin, TX 78731-1639

**Time Warner Communications Holdings, Inc.**  
Aaron I. Fleishman  
Richard Rubin  
Mitchell F. Brecher  
Steven N. Teplitz  
Fleischman and Walsh, LLP  
1400 16th Street, NW  
Washington, DC 20036

**TLD (Telefónica Larga Distancia  
De Puerto Rico, Inc.)**  
Alfred M. Mamlet  
Philip L. Malet  
Colleen A. Sechrest  
Steptoe & Johnson LLP  
1330 Connecticut Avenue, N.W.  
Washington, DC 20036

**Unicom, Inc.**  
Steve Hamlen, President  
5450 A Street  
Anchorage, AK 99518-1291

**United Calling Network, Inc.**  
Perry W. Woofert  
1200 29th Street, N.W., Suite 200  
Washington, DC 20007

**United States Telephone Association**  
Roy M. Neel  
Bob A. Boaldin  
1401 H Street, NW, Suite 600  
Washington, DC 20005

**US West, Inc.**  
Robert B. McKenna  
Kathryn Marie Krause  
James T. Hannon  
1020 19th Street, NW, Suite 700  
Washington, DC 20036

**UTC**  
Jeffrey L. Sheldon  
Sean A. Stokes  
1140 Connecticut Avenue, NW, Suite 1140  
Washington, DC 20036

**Vanguard Cellular Systems, Inc.**

Raymond G. Bender, Jr.  
J.G. Harrington  
Peter A. Batacan  
Dow, Lohnes & Albertson  
1200 New Hampshire Avenue, NW, Suite 800  
Washington, DC 20036

**Vartec Telecom, Inc., Transtel, Telephone Express,  
CGI and Communigroup Inc. of Mississippi**

James U. Troup  
L. Charles Keller  
Arter & Hadden  
1801 K Street, N.W., Suite 400K  
Washington, DC 20006

**Virginia Electric & Power Company**

Richard D. Gary  
Charles H. Carrathers, III  
Hunton & Williams  
951 East Byrd Street  
Richmond, VA 23219

**Virginia State Corporation Commission**

Edward C. Addison, Director  
Division of Communications  
P.O. Box 1197  
Richmond, VA 23218

**Washington Independent Telephone  
Association**

Richard A. Finnigan  
2405 Evergreen Park Drive SW  
Suite B-1  
Olympia, WA 98502

**Washington Utilities and Transportation  
Commission**

Steve McLellan, Executive Secretary  
P. O. Box 47250  
Olympia, WA 98504-7250

**Western Alliance**

Charles H. Kennedy  
Morrison & Foerster, LLP  
2000 Pennsylvania Avenue, N.W., Ste. 5500  
Washington, DC 20006

**Wisconsin Public Service Commission**

Cheryl L. Parrino, Chairman  
610 North Whitney Way  
P.O. Box 7854  
Madison, WI 53707-7854

**Wyoming Public Service Commission**

Steve Ellenbecker, Chairman  
Kristin H. Lee, Commissioner  
700 West 21st Street  
Cheyenne, WY 82002

**Southwestern Bell Telephone Co.**

Durward D. Dupre  
Mary W. Marks  
Jonathan W. Royston  
One Bell Center, Room 3520  
St. Louis, Missouri 63101

**NTCA**

David Cosson  
L. Marie Guillory  
2626 Pennsylvania Avenue, N.W.  
Washington, DC 20037

**Perkins COIE**

Greg P. Mackay  
411 - 108th Avenue NE, Suite 1800  
Bellevue, Washington 09004-5584

**NU System Companies**

Daniel P. Venora  
Northeast Utilities Service Co.  
P.O. Box 270  
Hartford, CT 06141-0270

**Ohio Edison Company**

Linda R. Evers  
Ohio Edison Company  
76 South Main Street  
Akron, OH 44308

**Pacific Gas and Electric Company**

Shirley A. Woo  
P. O. Box 7442  
San Francisco, CA 94120

**The Local Exchange Carrier Coalition**

William F. Maher, Jr.  
David Colton  
Halprin, Temple, Goodman & Sugrue  
1100 New York Avenue, N.W.  
Suite 650 East  
Washington, D.C. 20005

**Pilgrim Telephone, Inc.**

Walter Steimel, Jr.  
Marjorie K. Conner  
Hunton & Williams  
1900 K Street, N.W.  
Washington, D.C. 20006

**The National Cable Television Association, Inc.**

Howard J. Symons  
Christopher J. Harvie  
Sara F. Seidman  
Mintz, Levi, Cohn, Ferris, Glovsky  
& Popeo, P.C.  
701 Pennsylvania Avenue, N.W.  
Suite 900  
Washington, D.C. 20004

**Delmarva Power & Light Company**

Dale G. Stoodley  
Joanne M. Scanlon  
Delmarva Power & Light Company  
800 King Street  
P. O. Box 231  
Wilmington, DE 19899

**Duquesne Light Company**

Steven J. Del Cotto  
411 Seventh Avenue, 16-006  
P. O. Box 1930  
Pittsburgh, PA 15239

**Beehive Telephone Company, Inc.**

Russell D. Lukas  
Lukas, McGowan, Nace  
& Gutierrez, Chartered  
1111 19th Street, N.W.  
Twelfth Floor  
Washington, D.C. 20036

**People of the State of California**

Peter Arth, Jr.  
Edward W. O'Neill  
Mary Mack Adu  
505 Van Ness Avenue  
San Francisco, CA 94102

**Paul Glist**

Cole, Raywid & Braverman  
1919 Pennsylvania Avenue, N.W.  
Suite 200  
Washington, D.C. 20006

**Celpage, Inc.**

Frederick M. Joyce  
Elaine D. Critides  
Joyce & Jacobs, Att'ys. at Law  
1019 19th Street, N.W.  
14th Floor, PH-2  
Washington, D.C. 20036

**Consolidated Edison Company of  
New York, Inc.**

John D. McMahon  
Mary L. Krayske  
4 Irving Place - Room 1815S  
New York, NY 10003

**Delmarva Power & Light Company,  
New Mexico PSC**

John H. O'Neill, Jr.  
Robert E. Conn  
Shaw, Pittman, Potts & Trowbridge  
2300 N Street, N.W.  
Washington, D.C. 20037-1128

**Florida Power**

Jeffrey A. Froeschle  
3201 Thirty-Fourth Street South  
P.O. Box 14042  
St. Petersburg, FL 33733-4042

**Infrastructure Owners (Electric Companies)**

Shirley S. Fujimoto  
McDermott, Will & Emery  
1850 K Street, N.W.  
Suite 500  
Washington, D.C. 20006

**Kansas City Power & Light Company**

Michael A. Rump  
1201 Walnut  
Kansas City, Missouri 64141-9679

**OPASTCO**

Lisa M. Zaina  
Ken Johnson  
21 Dupont Circle, N.W., Suite 700  
Washington, DC 20036



**Lower Colorado River Authority**

Thomas J. Keller  
Kathy D. Smith  
Verner, Liipfert, Bernhard, McPherson & Hand  
901 15th Street, N.W.  
Suite 700  
Washington, D.C. 20005

**State of Colorado**

Anthony Marquez  
First Assistant Attorney General  
1580 Logan Street, OL2  
Denver, CO 80203

**Rand McNally & Company**

Daniel S. Goldberg  
Goldberg, Godles, Wiener & Wright  
1229 Nineteenth Street, N.W.  
Washington, D.C. 20036

**Kalida Telephone Company, Inc.**

Ralph Miller, General Manager  
121 E. Main Street, Box 267  
Kalida, OH 45853

**Consolidated Communications Telecom Services Inc.**

Ellyn Crutcher  
121 South 17th Street  
Mattoon, IL 61938